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MICHAEL RODAK, JR., CLERK

IN THE

# Supreme Court of the United States

OCTOBER TERM, 1973

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No. 72-1712

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IN RE GRAND JURY SUBPOENA SERVED UPON SIMON HOROWITZ

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## PETITION FOR REHEARING

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PRESS OF BYRON S. ADAMS PRINTING, INC., WASHINGTON, D. C.

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Petitioners hereby move this Court for reconsideration of this Court's order of October 9, 1973 denying the petition for a writ of certiorari in this case upon the following ground:

On October 15, 1973 this Court granted certiorari in the case of *Bellis* v. *United States,* No. 73-190. The single issue there presented for review was whether a former partner in a dissolved law partnership was correctly held not entitled to invoke the Fifth Amendment privilege against self-incrimination as a ground for refusing to produce business records maintained by the partnership while he was a member, where such records had come into his possession after the dissolu-

tion. A ruling in favor of the petitioner in that case could not turn on the happenstance of physical possession of the partnership's records in his hands as opposed to one of the firm's other former partners or employees. Ultimately, the issue posed in *Bellis* is whether there exists a Fifth Amendment interest in the records themselves on the theory of a legitimate expectation of privacy under *Couch* v. *United States*, 409 U.S. 322 (1973). That is the same fundamental issue presented in this case, and a disposition favorable to the petitioner in *Bellis* necessarily would affect the lower Court's rationale for rejection of the Fifth Amendment claim in this case.

Petitioners respectfully suggest that it would be appropriate to set their case for argument with the *Bellis* case.

Respectfully submitted,

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**Certificate of Counsel**

I hereby certify that this petition for rehearing is presented in good faith and not for purposes of delay. I further certify that the petition for rehearing is restricted to the above stated ground.

HERBERT J. MILLER, JR.